RESEARCH ARTICLE

A CRITICAL REVIEW ON PERSPECTIVES OF CHILD RIGHTS AND PROTECTION IN AFRICA

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ABSTRACT

The rising number of incidences of psychological and nervous breakdowns and open psychiatric illnesses among children and adolescents are resulting into society's, (parents and teachers in particular) inability to offer appropriate nurturance to them (children and adolescents). Parents and or caretakers with society at large are faced with difficulty to understand the childhood and adolescence stages. Effort has been put in place to try to maintain the known or familiar systems of parenting, nurturance and moral training, however, some seem to be a failure due to a number of factors such as modernity which allows exposure and modeling age-inappropriate behaviour. This article has assessed the principles of the rights of children with specific reference to Africa and Ugandan context. Children and adolescents in the contemporary society in Africa and in Uganda in particular are faced with many critical issues like inappropriate parenting/nurturance styles; unhealthy attachments and detachments; unresolved grief; traumatic events; addictions to drugs and substances; stress and conflicts; and peer pressure, child labor, child torture, child neglect. They therefore exhibit their vulnerability in behaviour. It concludes that raising the child requires an integrated and holistic approach supportive families, communities and government agencies by providing the basic needs of the children.

INTRODUCTION

This article has examined the perspective of African understanding of rights of children. The current understanding of Human Rights has grown over the last seventy years shortly after the end of Second World War. The inception of human rights has taken up a distinctive legal moral and political connotation on humanity's way of life. The Universal Declaration of Human Rights was adopted by the Third United Nations General Assembly in December 1948, has become a basis for most constitutions of different countries and legal bodies Johannes, Morsink (2009). Several Universal Declaration on Human rights have, become a basis for international laws like the European (1950) and American (1969) Conventions and the International Covenants (1966) and The African Charter on the Rights and Welfare of the Child, (1990). According to Guaba (2003) human rights are those rights that an individual is entitled to by the virtue of his/her status as a human being. Human rights of an individual belong to him/her irrespective where a person is. Human rights are those rights held simply by virtue of being a person. In other words, one simply needs to be born a human being in order to possess human rights. According to Shivji (2004), human rights are fundamental rights that a person has by virtue of being a human being. They are inherent in human beings hence should be recognized, respected and enforced. Human rights are not gifts from the state. Rather, they are in a person

by the reason of his/her birth hence they precede the State and the law. Hedley Bull refers to human rights as "rights attaching to human beings as such." Moreover, all human beings equally enjoy human rights (Baehr, 1996). According to Forsythe (2000), human rights *"are considered to be fundamental moral rights of the person that are necessary for a life with dignity."* Forsythe further argues that human rights are means to a greater social end. In a society that respects and protects human rights, there must be a legal system where rights are considered most fundamental and critical to its members. When it comes to children's rights it has been a philosophical debate over the years. Most jurisdictions accord children legal rights. Most countries have ratified the United Nations Convention on the Rights of the Child which was first adopted in 1989. The Convention accords to children a wide range of rights including, most centrally, the right to have their 'best interests' be 'a primary consideration' in all actions concerning them (Article 3), the 'inherent right to life' (Article 6), and the right of a child "who is capable of forming his or her own views … to express these views freely in all matters affecting the child" (Article 12) (United Nations 1989). According to Aristotle a human child is an immature specimen of the organism type, human, which, by nature, has the potentiality to develop into a mature specimen with the structure, form, and function of a normal or standard adult. Two vital changes has transformed the Aristotelian thinking. One is the 19th century idea that ontogeny recapitulates phylogeny (Gould, 1977), that

is, that the development of an individual recapitulates the history and evolutionary development of the race, or species (Spock, 1968). With these variations of understanding children's rights has been violated with shocking. UNICEF (2004) estimates that 1 million children are trafficked each year for sexual exploitation. There are 300,000 child soldiers in 30 conflicts around the world. In 23 countries more than 30% of children under 5 years of age are moderately or severely underweight. There are at least 25 countries where more than 15% of children die before they reach the age of 5. UNICEF (2003) puts the number of primary school age children out of school worldwide at 121 million, with a marked excess of girls 65 million girls and 56 million boys (The Convention on the Elimination of All Forms of Discrimination against Women, 2004).

Conceptualization of Child Rights

In the indigenous African setting, childhood is not measured by biological age but a sense of societal responsibility. A person who remains under the care and in the household of the parents is considered still a child even when above 18 years old. According to Eboussi-Boulaga (1984) as cited in Naisiko (2012) in some traditional African societies, one transited from childhood to adulthood. Kiyingi (2016) added that after completing specific African initiation rituals like birth, infancy, childhood rites and related adolescence then one can be considered an adulthood. Some of these initiation rituals included circumcision, uprooting the lower front teeth and tattooing. In relationship with the CRC and the ACRWC, the Children Act recognizes the child as any person below the age of 18 years (Ministry of Gender, Labour and Social Development, November 2007). When a child is below 18 years is considered unable to take full decisions of his/ her own life and needs guidance of supportive elders.

The human rights gained prominence and revival after the events of the Second World War which had a lot of human rights implications. The Universal Declaration of Human Rights (1948) included two articles with specific references to children that is education and social protection during childhood. The contemporary discussion of child right is more interested in particular rights as measures of protecting the children's rights which a number of countries adopted from the declarations. I should be noted however that a number of steps needed to be taken by different countries to safe guard children in most cases which are in line with international agencies like World Bank, UNICEF and UNDP. In understanding child rights, there is a need to focus on holistic aspects of a child ranging from specific domains such as physical, mental, emotional and social growth and development. Children are more vulnerable during childhood years due to factors like poverty that lead them to poor nutrition and thus impairing the domains of development. (Coletta *et al.,* 1996). Children who are undernourished have higher risk of early childhood mortality (maternal and child) or attaining poor performance in formal education and socio-cognitive skills development. Figure 1.1 indicates how each of these layers is needed to provide a secure basis for children's rights. The Acts about children's rights have been enacted at different times into their domestic law: The Children Act, 2001 (Kenya); Law of the Child Act, 2009 (Tanzania); The Children Act, Chapter 59, 1997 (Uganda) and Constitution of the Federal Democratic Republic of Ethiopia (FDRE) and the Revised Family Code, Proclamation No. 213/2000 (Ethiopia).
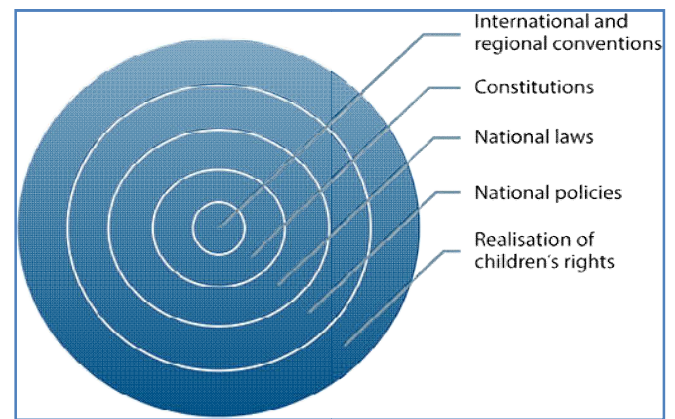

Figure 1.1. The layers needed to provide a secure basis for children's rights

The African duty towards the child is reflected in the family, community and government.

Child Rights and Protection in African contexts

To advance the quality of life the Universal Declaration of Human Rights (UDHR) asserts that "all human beings are born free and equal in dignity and rights," that exposes all people without discrimination of any kind, to all the rights and freedoms set for in the UDHR (The Universal Declaration of Human Rights (1948, art. 1). Children are entitled to human rights and they need an affirmative consideration as a unique category of persons with development needs ensured by the corresponding caretakers (Bueren, 1998). This clearly shows that the life of children is inalienable life and has to be supported by the caretakers. However, there are 300 million chronically hungry children in the world; 100 million of them do not attend school (United Nations Girls Education Initiative, 2018). According to the international human rights law, the major treaty protecting children's rights is the United Nations (UN) Convention on the Rights of the Child (CRC) that was adopted in 1990. This CRC embraces the fundamental human rights that children possess everywhere that is: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural, and social life (United Nations International Children's Emergency Fund, 2018). At the regional level, all member countries have ratified legal instruments to ensure child protection. In reference to the regional human rights systems cultural difference is the biggest threat that faces the protection of human rights. Regions may have specific child rights needs that maybe harmonized with the universal child laws (Sarkin, 2006). The contemporary Africa perception of children's rights indicates that this is the only continent with a region-specific children's rights instrument that supports their welfare (Advancing Children's Rights, 2018). The ACRWC was initiative for the purpose of supporting the objectives of the CRC and to fill the legal gaps in child protection which are not well captured in the universal children's rights treaty. Consequently, the ACRWC appears to be more protective than its universal counterpart (*Sepulveda et al.,* 2004). The major aim of this chapter is to synthesize theoretical and practical application of children's rights in African with specific references to Ugandan context. In the African perspective, name and one's originality is a sacred value that is core as reflected in communal society. Article 6 (1-3) about Name and Nationality states that "Every child shall have the right from his birth no a name; every child shall be

registered immediately after birth. Every child has the right to acquire a nationality." In reference to Article 2, of the African Charter of child rights and welfare, a child refers to every human being below the age of 18 years (The African Charter on the Rights and Welfare of the Child, 1990). The African Charter on the Rights and Welfare of the Child adopted in 1990 highlights clearly children's rights which include participation of children in hostilities, child marriages, child refugees and the best interest of the child principle (The African Charter on the Rights and Welfare of the Child, 1990).These rights are derived from the contextual situations of children in Africa (Viljoen, 2001). This clearly brings out how the African children's rights emerged from the African context posed to address issues that directly affect children.

Principle of child rights and protection under the African Children's Charter

Principle of the best interest of the child: Article 4 (1) on the Best Interests of the Child stated that "In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration." This article deals with the principle of the best interest of the child and analyses the contextual difficulties that are latent in its determination and application particularly in Africa. This is reflected in the paradigm of how culture and cultural practices has an implication on the best interest of the child is traditional acts such as virginity testing and female genital mutilation (FGM). Article 21 and article 24 of the Children's charter prohibits harmful social and cultural practices towards children.

Principle of non-discrimination: The article 3 of the charter on non discrimination of children stated that "Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status." This principle reveals that the Children's Charter prohibits discrimination against children on grounds of the sex of the child. This principle is predominantly relevant in the African context. This has in most cases favouritism for the male children than their counterpart female children who are subjected to discrimination just by the fact of their being female (The African Charter on the Rights and Welfare of the Child, 1990). This kind of discrimination is evident in the nature of role assigned to children according to their gender.

Principle of survival and development of children: The Article 5 (1,3) on Survival and Development states that "Every child has an inherent right to life. This right shall be protected by law. Death sentence shall not be pronounced for crimes committed by children." The African children's charter indicates that the children in traditional African societies do not belong solely to their parents. In the African context children have obligations to the wider society. In African context the child was taken as a child of everyone with a communitarian parental role that involved the responsibility of everyone in the provision and exercise of children's rights.

African perspective of child Rights and Child Protection:

In bid to protect children against abuse and torture, the African Charter on the Rights and Welfare of the Child Article 16(1):

which states that postulated that "States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child. Children at all cost have right for protection for all harm including but not limited to child trafficking, sale or abduction. In this regard, the ACRWC Article 29: vehemently condemns the Sale, Trafficking and Abduction of children by asking all the member states to take necessarily preventive measures. This is a pertinent issue that affects the children's life in Africa especially when considering the young ones' value of life.

An estimated 7.8 million children in Sub-Saharan Africa have been orphaned by HIV/AIDS (UNAIDS/WHO, 1998:64), and at least 1 million by conflict (UNICEF, 1995). (Orphans generally refer to children who have lost one or both parents. In most cases, children who have lost both parents are particularly vulnerable). Whilst most orphans have been absorbed into relatives or neighbours' families, in areas with high rates of HIV-related deaths, there are signs that communities are stretched beyond their capacity to cope. For example, in western Tanzania, Tibajiuka and Kaijage (1995) found many relatives refused to take responsibility for orphans or that many of those who did were unable to look after the children. In both Tanzania (ibid) and Uganda, while grandparents are most likely to take in orphans, they were also particularly likely to be poor (Taylor, 1998). Tibajiuka and Kaijage view this increasing inability of relatives to provide for orphaned children as symptomatic of change in the concept of family. Under economic pressures, related to a combination of recession, adjustment, drought and HIV/AIDS, they argue, 'family responsibilities' are increasingly viewed in terms of nuclear rather than extended families (1995:198).

Numerous studies of the social impact of economic crisis in Africa show women taking on new income-generating activities, often outside the home, in order to supplement existing income sources (Moser, 1996). For example, in South Africa, it is common for parents in poor households "to be physically present, but to have little time for active parenting as they leave for work before sunrise and return after dark' (GoSA, 1996: 17). Some studies indicate that children view this lack of emotional support and guidance as more harmful even than inadequate food (GNCC, 1997). In Principle, Child Protection and duties is an old phenomenon in the African Society however the fact that children are not yet grown up has been and is used as an excuse by parents, and many adults, particularly in Africa, to follow their own interpretation what is in the child's interest (Osifunke 2015).

Child rights and child protection against abuse: the ugandan context

Demographically, Uganda is the second youngest country in the world in terms of its age structure, with 54% below 18 years according to the state of Uganda population report (2017). The focus on children and adolescents is therefore central to achieving SDGs 3 (good health and well being),4 (quality education) and 10 (reduced inequality) and for future development of the country. However, the children of this country especially girls, face numerous vulnerabilities. These include: poverty, lack of support from families and communities, limited economic opportunities, lack of voice

and lack of health and education facilities. In Uganda, several efforts have been put into protecting the children at different levels right from the family as the foundational unit to the national level manned by the government. The legal national frameworks protecting children as stated in the National Integrated Early Childhood Development Policy (2016) include; the 1995 Constitution which provides for the rights of Children in Article 34 (1-7) and The Children (Amendment) Act, 2016 that emphasizes the protection of the child by upholding their rights, protection, duties and responsibilities. Other frameworks are: Birth and Death Registration (BDR) Act Cap 11 309, which calls for registration of all births and deaths of all Children, The Education Act (2008) which provides for free and compulsory primary education for all Children including OVC and CwDs, The Prevention of Trafficking in Persons Act (2009), The Disability Act (2003) and the Education Policy - UPE Policy (1997). Article 14 (1) on Health and Health Services stated that "every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. Chapter four of the constitution of Uganda contains a number of provisions that apply to children and specifically addresses the rights of children. According to article 275(1)(C), a child is defined as a person under the age of eighteen years. Whereas international ratifications such as United Nations Convention on the Rights of a Child do not necessarily in anyway have force in the Ugandan law, Uganda's Children's act clearly states that children shall have the right to exercise all the rights that are set out in the United Nations Convention on the Rights of a child.

According to article 3 of the convention of the rights of the child (Year1989), in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Article 12 of the Convention on the Rights of the Child recognizes that children have a right to be heard and allowed to participate in decisions that affect them. This is in line with article 7 about freedom of expression states that "every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws." However, according to the report on the situation analysis on Children in Uganda by UNICEF, the participation of children in decisions that affect them is restrained by the limited scope of existing guidelines and the lack of a coherent national strategy. Collective decisions making with the involvement of the child is uncommon in Africa since children are seen as too young to make logical contributions to making the right decisions. Children are usually not involved in making decisions at both at household and community level. Responding to lack of child participation, the ministry of Gender Labor and Social Development in 1997 came up with a guide called the national guide for participation in Uganda which is meant to create an environment for children to be heard. The concept of child protection in Uganda puts into consideration the aspect of gender, as a specific concern as girls in Uganda face various constraints on their capabilities. This is seen in the concentration on the protection of the girl child as compared to the boy child. The constraints faced by the girl child create susceptibility to violence and abuse hence the justification of the concentration on the girl child in child protection. Despite the strides made, the situation and quality of life of children is not synonymous with the improvements in above legislations

and laws protecting them. Children's right to protection continues to be a critical challenge given that: 8% of children are critically vulnerable and 43% are moderately vulnerable (MoGLSD, 2011 and UBOS, 2014a); still only 60% of children are registered within a year of birth (UNICEF Uganda, 2015), and government spending on child protection is marginal.

In a study done by Walakira and Dumba (2012) in Uganda findings show that much of the violence against children remains normalized and socially condoned. This pretty much depends on what is socially acceptable in such a community. Communities are able to assess by-laws that govern their areas as long as they are socially acceptable. The bye- laws ideally should not conflict with the national laws passed. However sometimes these by- laws conflict with national laws but because society socially constructs its member to believe social reality the by-laws still operate in that particular community. A good example in this is Female Genital Mutilation (FGM) that is done in the Sebbi region of Eastern Uganda. Female Genital Mutilation/Cutting survey report, UBOS (2017) 1.4% of Ugandan women have been cut (FGM). The majority of women reported that parents that is. Fathers (35%) and mothers (19%) mostly encouraged their daughters to get cut (FGM). This clearly shows social acceptance of the FGM practice and hence the willingness to support the practice even when the government is trying to protect the girls.

The girls are socially constructed to believe that no man will marry them if they have not had FGM. This may be true because if the men are also constructed to believe that if a woman has not gone through FGM they will have a high libido and therefore will be promiscuous. Child marriage is another form of violation of children's rights that is socially acceptable. Over 15% of ever-married women aged 20–49 are married by the age of 15 and nearly half (49%) by the age of 18.(Unicef, 2015) reported the figure to be 22.5% (including unregistered unions); 15.9% of married women aged 15-49 were married by their 15th birthday. According to Pilot Country studies conducted in 1999 in Uganda, *"Several types of marriages exist legally in Uganda: Civil, Christian, Hindu, Islamic and customary. There are separate statutes for each type of marriage"* (Change, 1999). These marriages need the promotion of psychosocial family rights. In 1998, parliament approved a statute to protect children and emphasis was put on discouraging child marriage. The statute established children's courts at the village level to try cases of defilement and underage marriage. Despite the laws and policies like children amendment act 2016 that were enacted to address the problem of early marriage and child pregnancies, traditional attitudes ,the failure to implement current statutes, still stand in the way of completely eradicating the problem. In Buganda one of the kingdoms in Uganda, girls are prepared for marriage at an early age. Before the popularization of human rights girls were married off by their parents as early as 13 years thus violating their childhood rights. Marriage was arranged between families, the assumption is that a family with a good reputation has brought u their son or daughter well and fit for marriage. The girls u to resent day are taken to their paternal aunties for preparation and the boys to their paternal uncles. Some of the preparations made before marriage includes "visiting the bush". Unless you hail from this community you can never know the correlation between visiting the bush and marriage preparations. The girls are told that if they do not visit the bush then they will have difficulty in marriage and child birth. These are just social constructs. By visiting the bush the girl

will be taught how to "pull". Pulling is the direct translation of elongation of the labia minora. This again is similar to Female Genital Mutilation where the child is meant to believe that if they do not do what they are told, the consequences are may be so heavy. Adverse health effects of visiting the bush however have not been seen so far but there are social effects. This is because visiting the bush is preferably done before the first menstrual periods, the average age therefore is 9-12 years. When the genitals of these young girls start being touched they are also inquisitive to know more about their bodies which may lead them into having early sex hence early pregnancies or being more susceptible to early sexual awakening and arousal and thus easy to be sexually manipulated by unethical adults. Childhood sexual abuse is a subtype of child abuse defined as sexual contact between an adult and child between the age of 18 years of age in which the child is used for sexual gratification (Moore *et al.,* 2011). For many girls, the first experience of sexual intercourse is unwanted or even coerced as evidenced by the fact that one in four Ugandan girls had their first sexual intercourse against their will between the ages of 15-19 (UDHS, 2011). According to the ACRWC Article 27 on sexual exploitation indicated that all "States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse.

In rural areas of Uganda, sexual exploitation is manifested in different forms that include rape, domestic violence, coercion in exchange of gifts, money or other benefits, or use of threats. A 2011 study conducted by Uganda Youth Development Link estimated that the number of children affected by commercial sexual exploitation in Uganda has increased from 12,000 to about 18,000 between 2004 and 2011, with more girls affected by the practice. Parental neglect was also identified as an enabler of this exploitation given that 80% of the children involved in the practice were staying alone before they go into it. According to the Uganda Demographic and Health Survey 2011 (UBOS, 2012) by the Uganda Bureau of statistics, 12.2% of girls had their first intercourse between the ages of 15-19 and 17.9% of boys had their first intercourse in the same range. One in four Ugandan girls admits that their first sexual intercourse was against their will. Also 14% of adolescent's between 15-19 has experienced sexual abuse (UBOS 2006, 2010). In 2011, UBOS found that 15% of the ever-married women aged 20-24 were married by the age of 15 and 49% by the age of 18. In a study done by UNFPA 2013, Uganda was ranked 16th among 25 countries with the highest rates of child marriage with 46 % of the girls marrying before the age of 18 years and 12% before the age of 15 years. In a study conducted in rural Uganda, 75% of female respondents admitted that expecting gifts was the primary reason they had sex at their last intercourse. Choudhry *et al.,* (2015) argues that transactional sex is often differentiated from commercial sex work since participants do not identify themselves as 'prostitutes' and 'clients'. Exchanging gifts for sex is often a part of a broader set of obligations that might not involve a predetermined payment or contract. Choudhry *et al.,* (2015) adds that in Sub Saharan Africa, transactional sex varies and that exchange of gifts or money for sex signifies 'respect, commitment in a relationship, expression of affection, an obligation fulfilled'. Transactional sex often coexists with other risky behaviors such as multiple sexual partners, inconsistent condom use, early sexual debuts and unintended pregnancies (Moore *et al.,* 2007). Cross-generational sex and transactional sexual relations are a significant public concern in Uganda, affecting 11.8% of adolescent girls across the country. Extreme economic poverty and social norms issues compounded by the need for financial rewards that range from economic survival to desire for status and possessions is one of major factors that force adolescent girls into highly vulnerable relationships, often with much older men. Given Uganda's young population with high unemployment rate of 5.3% and high teenage pregnancy rates of 25%, there exists a critical and urgent need to reach adolescent girls with economic support. This will reduce the dependence ratio, increase financial freedom yet reduce sexual exploitation and vulnerabilities. Social norms and attitudes in families and parenting practices play a strong role in perpetuating a culture of impunity for perpetrators of violence against children and adolescents. This is aggravated by a high tolerance of gender based violence and violence against children. For instance, the 2012 UDHS found that 58 percent of all Ugandan women aged 15-49 believe that wife beating is justified for example if a woman argues with the husband.

A good example of such social constructs is the idea that a woman cannot talk about sexual violence by either her husband or immediate family relatives as she will be considered indisciplined. Backing up this belief are numerous proverbs: Among the batooro, a saying "***Bifeeera munda bisemeza amalembo***" translated to mean that a good wife would rather die with her domestic issues as long as her family is not embarrassed. Similarly among the Banyankole-Bakiga, a saying that "***ebyomuka biweera munju***" literary meaning that family issues are resolved within the home. These constructs and social norms on parenting limit the realisation of children's rights and social justice for children. Although some taboos help in creating social harmony and also protecting girls and women, others endanger the children. For example among the Batooro a tribe in western Uganda, the girls are taught to be humble and always giving to the men. That is where some sayings like "**omusajja tayangwa**" (never refuse to give a man sex) among the batooro and "***muka mugandawo wazila nsonga***" (the wife to your brother is yours as well). This is as if the man is marrying the whole clan/ family. Some of these sayings cause verbal abuse among the children. For example the saying "*omwana omubi avumaganya nnyina*" (a bad child is a curse to the mother). Child labour is another form of child abuse that is contained within society. The Government of Uganda ratified ILO Conventions No. 138 (Minimum Age) and No. 182 (Worst Forms of Child Labour). The children should be safe guarded from activities of child labour as cited in the African Charter on the Rights and Welfare of the Child, (1990) Article 15 (1-2) on Child Labour that "Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development. A numbers of partners are supporting the government in the elimination of the worst forms of child labor. However, due to the poverty levels in Uganda, efforts to eradicate child labor have remained unfruitful.

According to the 2016 World Bank Poverty Assessment, the proportion of the Ugandan population living below the national poverty line declined from 31.1% in 2006 to 19.7% in 2013. Further, a third of the population still lives below the international extreme poverty line, with more than half the population (approximately 17.1 million) under age 18 (56 percent). Income inequality is increasing throughout country, and 22 percent of children (4.4 million) live in income-poor households (Government of Uganda, 2015; UNICEF 2015).

Forty-three percent of children are moderately vulnerable and eight percent are critically vulnerable (MGLSD and UBOS, 2014). Education is seen as a path to getting white collar jobs which are usually more rewarding in terms of remuneration. When children start work earlier, they are more likely to drop out of school because they already are getting money and have a job, one of the most important reasons why children are taken to school in Africa. This is in line with African Charter on the Rights and Welfare of the Child, (1990) Article 11(1-2): which states that "every child shall have the right to an education and the education of the child shall be directed to: (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential. Child labor therefore has a direct negative effect on education. Child labor creates cycles of intergenerational poverty. This evident in the quality of employment that the children are engaged in. Children get limited opportunity to quality jobs to break the vicious cycle of poverty.

According to the child labour policy that was released by the ministry of gender, labour and social development in 2006, there is a lack of understanding regarding the difference between child work and exploitative labour. In the traditional context, child labour is considered normal even when it is dangerous to the wellbeing of the child. Societal norms and attitudes on children having to help at home influence the society as whole including child labour practices and exploitation both in homes and outside. This widespread acceptance child labour has a link to low school attendance and high school drop outs especially for girls. According to the research conducted by organizations such as ANPPCAN (2011), Plan International (2012) and Raising Voices, violence against children is widespread especially in schools. 74.3% of children in school especially children in government schools (75.6%) compared to those in private schools (73%) are subjected to caning (Corporal punishment) by teachers under the pretext of "pushing" them to attain higher academic grades while 82% of the children were made to do difficult work such as digging, slashing and collecting water at school as a punishment to instill discipline (MOES, 2012). Bullying is also common in schools; 43% of children interviewed had experienced bullying and the prevalence rate of bullying was higher in primary schools (46%) compared to secondary schools (31%) and affected children from poor families and those with disabilities most. In the same study, 46.7% of children surveyed experienced emotional abuse by teachers (MoES, 2015). Child negligence in the home renders children, especially those from poor family backgrounds, orphans and those in alternative care more vulnerable to violence in schools. Children with disabilities are often labelled as "unintelligent" by their teachers and fellow children, resulting in poor self-esteem and self-image and may lead to their dropping out of school (Walakira and Ddumba, 2012). Even with the child rights legal framework available, child protection is still facing a number of challenges; lack of knowledge of child rights, political influence poor law enforcement social norms and social constructs. A number of efforts have been put into protecting the children against violence at different level right from the family as the foundational unit to the national level manned by the government. Since the Children's Act was amended in 2016, the legal framework for protection and promotion of children's rights has greatly improved. The government will to protect children can also be evidenced through the increment of national budget allocations the allocation in the sectors that relate to children such as health and education. At the national level to respond to issues of child protection and rights of the children, the Uganda Parliamentary Forum for Children (UPFC) was formed during the 7th parliament in 2005. UPFC is brings together members of parliament from different political parties to work towards a common goal of child rights and protection. This move was meant to put children's issues on priority agenda.

Obligation of duty bearers towards children

The duty bearers in the line of child protection include but not limited to; the state / government, society, community and the family. Each of these duty bearers has a stake in the protection of the rights of the children.
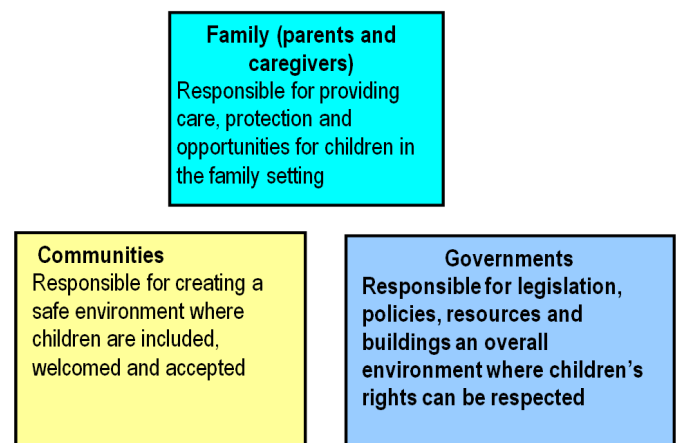

Figure 1.2. Responsibilities of key duty bearers

The above Figure.1.2 shows a brief overview of responsibilities of key duty bearers explained below. *An old African proverb – It takes a village to raise a child*

African duty of the family to the child

The family in the African world view is not limited to the immediate relations of what is described as a household. The family unit is constituted by parents, their children and extended family members. Mbiti (1990) asserted that in African thinking every family member has the duty of raising children including one's grandparents, aunts, cousins, uncles, nephews and other distant relatives who support each other in the responsibility of taking care of the same kinship system. According to the National Integrated Early Childhood Development Policy, the family is taken as the first line of response and is strengthened to provide adequate and holistic care for children (Ministry of Gender, Labour and Social Development, 2016). The family has specific duties towards their children as stipulated by the state in the children's act, while some are socially constructed. These roles include: it is the duty of the parents, guardians or person having custody of a child to maintain that child. This duty gives a child the right to: education immunization, adequate diet, clothing, shelter and medical attention. This also extends to protecting the child from discrimination, violence, abuse and neglect. The Education Act (2008) provides for free and compulsory primary education for all Children including OVC and Children with disabilities. It is the duty of the parents to take the children to school. Osifunke (2015) argues that parental control and protection for the child could at times be harmful

and in some cases be oppressive to children. Sometimes adults make decisions that have far-reaching consequences for children which might not be in the child's best interest. In as much as the parents want to protect the children, decisions should be taken considering the best interest of the child.

African duty of the community to the child

The community must therefore make, create or produce the individual; for the individual depends on the corporate group" (Mbiti: 1991). Mbiti further argued that physical birth is not sufficient for one to be counted as a person. Mbiti considers an observance of social ritual as an important component in each stage of one's life. The community has a parenting responsibility basing on the rituals that require a communal endorsement to incorporate one into the membership of the community and to give him/her a social standing and acceptability. The child obtains sense of existence from the communal connectivity thus a famous phrase; "I am because we are; and since we are therefore I am". According to the children's act chapter 59, community members have a role to report any form of violation of children's rights to the authority. In this chapter, any member of the community who has evidence that a child's rights are being infringed or that a parent, a guardian or any person having custody of a child is able to but refuses or neglects to provide the child with adequate food, shelter, clothing, medical care or education shall report the matter to the local government council of the area. In Ugandan indigenous communities, it is the role of the entire community to impart discipline in any children and ensure their well being. In Buganda culture, the child belongs to the community and any member of the community has a duty to ensure that all children's rights are upheld. This way, the community together with the leaders can come up with bye-laws that are in line with the constitution on how to handle children's issues

African duty of the government to the child

In essence, article 2(1) of CRC contends that "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or status", the inequalities faced by children around the world are tremendous." According to the national integrated early childhood policy of Uganda, 2016 the government of Uganda has the duty to ensure the protection of all children from conception to eight years and their caregivers to promote children's rights to survival, safety, protection and adequate care at family, community and national level.

The Government's commitment to the UNCRC constitutionally mandates ECD as a right and obligates government to protect the rights of young children to security, basic nutrition, basic health care and basic education. It is the duty of government of Uganda to pay special attention to the children with disability since they have special needs. Children with disability are assessed as early as possible depending on the nature of the disability and services as well as rehabilitation is done. The government also has a duty of ensuring that children with disabilities have equal access to services just like the other children. Government of Uganda set up structures at different levels to ensure that the rights of children are protected. Child

protection structures are also decentralized to the local government level; district, sub- county, parish up to the village. At the district level the probation and welfare officer who is under of the community based services department (CBSD) is directly responsible for the well-being of the children in the particular district. Other duty bearers at the CBSD include the gender officer, District Community Development Officer, labor officer who collectively work on the social welfare to ensure children's right s are a reality of all different aspects of life. At the sub- county level the community development officer, sub county chief, local council 111 chair person also work together for child wellness. At the parish level the parish chief also has the duty of protecting the rights of the children.

The local council one is there to ensure that the child and the family at the village level is protected. The chair person of the local council one plays a big role of mitigation and conflict resolution. They give counsel to the aggrieved parties. Although the chairperson of the local council is the closest authority to the family, some of the cases brought to him or her concerning child abuse are outside his mandate. The chairperson therefore has to make a referral of these cases to the relevant authority which is usually the police. Local council chair person only handles civil cases which are usually simpler. From the family level most people would refer to report cases to the local council chairperson because of proximity and the fear to report to the police. The local council committee also has the secretary in charge of women affairs who mainly handles issues of children and the family. So sometimes the chairperson refers cases of child abuse to the secretary in charge of women affairs if civil and the criminal cases to the police. The police department is also well established at the different levels of the community to enforce the law and also refer to the court for prosecution of those who abuse the rights of the children. The challenge in Uganda is that the rights of children are being abused but people fear to report to the police. One of the challenging cases to report is a case of child sexual abuse. The community is not free to openly speak about sex in public so they find it shameful to mention that a child has been defiled.

Conclusion

As argued above by creating by- laws connected to child protection, some communities are able to translate national laws into their local context, as well as to increase ownership of the law. Authors of this chapter have also examined the role of the state in promotion of rights. The article also assessed the principles of the rights of children with specific reference to Africa and Ugandan context. Children and adolescents in the contemporary society are faced with many critical issues like inappropriate parenting/nurturance styles; unhealthy attachments and detachments; unresolved grief; traumatic events; addictions to drugs and substances; stress and conflicts; and peer pressure, child labor, child torture, child neglect. They therefore exhibit their vulnerability in behaviour. Amidst all this keeping the perspective of children's rights the major key player are parents, guardians, teachers and concerned society members who become overwhelmed and hence refer their children and adolescents to professionals human rights practitioners like religious leaders, social workers, psychologists, psychiatrists and counsellors and traditional practitioners. These professionals do face a challenge of lack of adequate knowledge and or skill to help the affected children at a deeper level. In most of the African countries and

Uganda in particular, there is a need to have fully trained practitioners in the children's rights. Raising the child requires an integrated and holistic approach supportive families, communities and government agencies by providing the basic needs of the children.

REFERENCES

Advancing Children's Rights, (2018).

Assessing child protection, safety and security issues for children in Ugandan primary and secondary schools by MoES (2012).

Baehr R. Peter (1996). *The Role of Human Rights in Foreign Policy*. Houndmills: Macmillan.

Birth and Death Registration (BDR) Act Cap 11 309.

Change (1999). "Pilot Country Studies 1999: Uganda.

Choudhry (2015) Vikas Choudhry, Anne-Emmanuelle Ambresin, Viola Nilah Nyakato,and Anette Agardh. Transactional Sex and HIV risks – Evidence from a Cross-Sectional study in Uganda.

Coletta, N., J. Balachander and X. Liang (1996). *The Condition of Young Children in Sub-Saharan Africa*. The convergence of health, nutrition and early education, World Bank Technical Paper 326, Africa Technical Department Series, World Bank, Washington D.C. Female Genital Mutilation/Cutting survey report, UBOS (2017).

Convention on the Elimination of All Forms of Discrimination against Women (2004).

Convention on the Rights of the Child (1989).

Eboussi-Boulaga F (1984). *Christianity without Fetishes: An African Critique and Recapture of Christianity*. New York: Orbis.

Ekundayo (2015). Examining the Similarities and the Differences between the ACRWC and the CRC . *International Journal of Humanities and Social Science Vol. 5, No. 7(1); July 2015*.

Forsythe, David P. (2000). *Human Rights in International Relations*. Cambridge: Cambridge University Press.

Gauba, O.,P. (2003). *An Introduction to Political Theory*. New Delhi: Macmillan India LTD.

GoSA (South Africa), 1996, Report of the Lund Committee on Child and Family Support, GoSA, Pretoria

Grand Rapids: and Annabel Brett,(1997). *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought*. Cambridge: Cambridge University Press.

International Labor Organization, ratified by Uganda in 1963

International Labor Organization, ratified by Uganda in 1963

Johannes Morsink, (2009). *Inherent Human Rights: Philosophical Roots of the Universal Declaration*. Philadelphia: University of Pennsylvania Press.

Kiyingi Frank Pio (2016). Family Therapies and the Enhancement of Family Ritual in Kampala Capital City Authority-Uganda, Doctorial Dissertation Submitted to Nkumba University.

Larry Siedentop (2014). *Inventing the Individual: The Origins of Western Liberalism*. London: Allen Lane.

Maurice Wiles and Mark Santer (eds.), (1975). *Documents in Early Christian Thought* Cambridge: Cambridge University Press.

Mbiti S. John (1990). *African Religions & Philosophy*. Heinemann: African Writers series.

Mbiti S. John (1991). *Introduction to African Religions*. Heinemann: African Writers series.

Micheline R.Ishay (2004). *The History of Human Rights: From Ancient Times to the Globalization Era*. Berkeley and Los Angeles: University of California Press.

Ministry of Gender Labor and social Development, National child labor policy 2006

Ministry of Gender Labor and social Development, National child labor policy 2006

Ministry of Gender, Labour and Social Development (2016). The National Integrated Early Childhood Development Policy Action Plan of Uganda (2016-2021). The Republic of Uganda.

Ministry of Gender, Labour and Social Development (November 2007). Implementation of the African Charter on the Rights and Welfare of the Child in Uganda.

Ministry of Gender, Labour and Social Development. *(2016) The National Integrated Early Childhood Development Policy of Uganda.*

Ministry of Gender, Labour and Social Development. *(2016)The National Integrated Early Childhood Development Policy of Uganda.*

Moore,A.M.; Biddlecom, A.E.; Zulu, E.M. (2007). Prevalence and meanings of exchange of money or gifts for sex in unmarried adolescent sexual relationships in sub-Saharan Africa. *African Journal of Reproductive Health: 11(3): 44-61.*

Moore,A.M.; Biddlecom, A.E.; Zulu, E.M. (2007). Prevalence and meanings of exchange of money or gifts for sex in unmarried adolescent sexual relationships in sub-Saharan Africa. *African Journal of Reproductive Health: 11(3): 44-61.*

Moser Caroline (1996). *Confronting Crisis, comparative study of household responses to poverty and vulnerability in four poor urban communities,* ESD, ISBN: 0-8213-3562-6.

Naisiko T (2012). The significance of Rites of Passage in Human Development: A Case of Rites of Initiation to Adulthood among the Sabini of Eastern Uganda. Doctorial Dissertation Submitted to Uganda Martyrs University.

National Strategic Plan on Violence Against Children In Schools (2015-2020).

Osifunke Ekundayo (2015). Examining the Similarities and the Differences between the ACRWC and the CRC . *International Journal of Humanities and Social Science Vol. 5, No. 7(1); July 2015.*

Sarkin J (2006) 'Integrating transitional justice and demobilisation, disarmament and reintegration: The need to achieve rehabilitation, reintegration and reconciliation for child soldiers and child victims of enforced disappearances' in I Derluyn *et al.,* (eds) Remember: Rehabilitation and reintegration of war-affected children (2012) 77-104; LJ Laplante 'Transitional justice and peace building: Diagnosing and addressing the socio-economic roots of violence through a human rights framework' International Journal of Transitional Justice 331-355.

Sepúlveda Magdalena; Theo van Banning; Gudrún D Gudmindsdóttir; Christine Chamoun; Willem J M van Genugten (2004). Human Rights Reference Hand Book (3rd ed.). Costa Rica: University of Peace.

Shivji I.,G. (1989). *The Concept of Human Rights in Africa*. London: Codesria book series.

Shivji, Issa G. (2004). *Constitutional and Legal System of Tanzania*. Dar s Salaam: Mkuki-Tanzania.

The state of Uganda population report (2017). *Transforming Uganda's Economy: opportunities to hanase the demographic dividend for sustainable development.* Kampala Uganda

The state of Uganda population report (2017). *Transforming Uganda's Economy: opportunities to hanase the*

demographic dividend for sustainable development. Kampala Uganda

The African Charter on the Rights and Welfare of the Child, (1990).

The Children (Amendment) Act, 2016

The Children's act 1995

The Disability Act (2003)

The Education Act (2008)

The Education Policy - UPE Policy (1997).

The ministry of Gender Labor and Social Development (1997). The national guide for participation in Uganda.

The ministry of Gender Labor and Social Development (1997). The national guide for participation in Uganda.

The Prevention of Trafficking in Persons Act (2009),

The Ugandan Constitution, 1995.

Todres, JD Jonathan (2018). Advancing Children's Rights and Ensuring the Well-being of Children. JAMA Pediatr. 2015;169(1):5-6. doi:10.1001/jamapediatrics.2014.2470.

UBOS (2004) Uganda National Household Survey

UBOS (2006) Uganda National Household Survey

UBOS (2011) Uganda National Household Survey

UBOS (2012). Uganda Demographic Health Survey.

Uganda Bureau of Statistics (UBOS) 2012 - Government of Uganda. Kampala

UNFPA 2013: strategy on Adolescents and Youth: towards realizing the full potential of adolescents and youth. New York.

UNICEF (2014). A statistical snapshot of VIOLENCE against adolescent girls.

UNICEF Situation Analysis of children in Uganda (2015) Republic of Uganda

UNICEF. Guide to the optional protocol on the involvement of children in armed conflict. NewYork: Coalition to stop the use of child soldiers, UNICEF, 2003 (http://www.unhchr.ch/html/menu2/6/protocolchild.htm; accessed 19 July2004).

UNICEF. Stop the traffic. London: UNICEF, 2004.

United Nations International Children's Emergency Fund, 2018.

Universal Declaration of Human Rights (1948).

Van Bueren, G. (1998). The international law on the rights of the child London: Martinus Nijhoff

Viljoen Frans (2001). Africa's contribution to the development of International Human Rights and Humanitarian Law. *AHRLJ Volume 1 No 1*

Walakira E.J. and Ddumba I. N (2012). Violence against Children in Uganda: A Decade of Research and Practice, 2002-2012. Kampala: Ministry of Gender, Labor and social Development and UNICEF.

Walakira E.J. and Ddumba I. N (2012). Violence against Children in Uganda: A Decade of Research and Practice, 2002-2012. Kampala: Ministry of Gender, Labor and social Development and UNICEF.

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